IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3170 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANOJ D.THAKAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3170 of 1994

MR.MURLI DEVNANI FOR MR YOGESH S LAKHANI for the petitioners.

MR.MUKESH PATEL, ASSISTANT GOVERNMENT PLEADER for Respondent No. 1-3

LAW OFFICER BRANCH for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 30/07/2004

ORAL JUDGEMENT

The petitioners have approached this Court against the order dated 25.02.1994 by which they were informed by the learned District Judge, Junagadh that, 'they are repatriated to the district (i.e. Rajkot) from which they were transferred to Junagadh, subject to the order being reviewed by the High Court, with effect from 15.03.1994 (After Office Hours), as per order of posting by the District Judge, Rajkot. It was further mentioned in the said order that,

"(i) The Presiding Officers concerned are directed to relieve and discharge the above mentioned junior clerks accordingly."

(ii) They are liable for re-appointment as per the seniority of the Select List as and when vacancies arise on the establishment of this district."

The petition was filed on 03.03.1994 and this Court issued notice on 04.03.1994 returnable on 11.03.1994 and granted ad interim relief, to maintain status quo viz-a-viz. the petitioners as on the date of the order. Thereafter, on 18.08.1994 the Court issued rule and made it returnable in eight weeks and interim relief was confirmed to last till disposal of the matter. Mr.Murli Devnani for Mr.Yogesh Lakhani the learned advocate for the petitioners states that by virtue of the interim relief the petitioners are in service.

2. Mr.Devnani, the learned advocate submitted that the matter is similar to that of Special Civil Application No.3462 of 1994 which is decided by this Court by judgement and order dated 16.07.2004. He submitted that the case of the petitioners is squarely covered by the said decision and therefore, this petition is also required to be allowed. He submitted that the only point of distinction between the case of the petitioners of this petition than the case of the petitioner of that petition is that he was appointed on compassionate aground. He submitted that the facts mentioned in paras 4 and 5 of that judgement are the same. Besides, the ground mentioned in para seven is also available to the present petitioners.

3. For the reasons recorded in the said decision, more particularly the one to the effect that the need for retrenchment of the petitioner is not shown to be surviving today, the impugned order is required to be quashed and set aside, this petition is allowed. Rule is made absolute. No order as to costs.

(Ravi R. Tripathi, J.)

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